

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
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Trustee for Debtor(s)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re:

SALVADOR MORALES SR

ANGELINA JUANITA MORALES

Debtor(s)

)
)
) Chapter 13
) Case No. 17-51010 MEH

)
) TRUSTEE'S OBJECTION TO CONFIRMATION
) WITH CERTIFICATE OF SERVICE

)
) 341 Meeting Date: JUNE 12, 2017 @ 10:30 AM
) Confirmation Hearing Date: JULY 14, 2017
) Confirmation Hearing Time: 11:00 AM
) Place: 280 S. 1st Street Room 3020
) San Jose, CA
) Judge: M. Elaine Hammond
)

Devin Derham-Burk, Trustee in the above matter, objects to the Confirmation of this Plan for the following reasons:

1. The Debtors have failed to comply with 11 U.S.C. § 521(a)(1)(B)(iv) because the Debtors have failed to provide the Trustee with copies of their payment advices received within sixty (60) days before the date of the filing of the petition. If the Debtors cannot provide copies of the payment advices, a declaration signed by the Debtors under penalty of perjury must be provided pursuant to General Order 32 of the United States Bankruptcy Court for the Northern District of California. Pursuant to the order, the declaration must set forth the reasons that the payment advices are unavailable and should state the

1 Debtors' estimate of payments received within the 60 days before the petition date and
2 provide other evidence, if any, of the payments received.

- 3 2. The Debtors have failed to comply with 11 U.S.C. §521(e)(2)(A)(i) and (B), in that they
4 have not provided the Trustee with a copy of their 2016 federal and state income tax
5 return and W-2 form. Until the Debtors provide the requested information, the Trustee is
6 unable to perform her duties under 11 U.S.C. §1302(b)(1) (incorporating 11 U.S.C.
7 §704(a)(4)) and is unable to recommend confirmation.
- 8 3. The Debtors indicated in Section 5 of the plan that Additional Provisions are not
9 appended however an attachment to the plan was filed. The Trustee requests that the plan
10 be amended to select the correct choice regarding Additional Provisions.
- 11 4. Debtors have opted to participate in the Mortgage Modification Mediation Program
12 ("MMM Program") in section 5.01 of the Plan, but have not yet filed a Motion for
13 Referral to Mortgage Modification Mediation Program ("Referral Motion"). The Trustee
14 will not be able to recommend confirmation until the MMM Program process has been
15 completed and the Referral Motion is the first requirement in that process.
- 16 5. The Trustee is unable to determine if the plan is in compliance with 11 U.S.C.
17 §1325(a)(4). Schedule A lists Debtors' real property at 313 Broomley Cross Drive, San
18 Jose, CA 95119 with a fair market value of \$718,227.00. The Trustee requests that the
19 Debtors obtain a broker's opinion as to the current value of the real property. The
20 broker's opinion must include a detailed description of the property (i.e. square footage,
21 lot size, number of bedrooms/bathrooms, condition,) and must include copies of the
22 documentation used to determine the value.
- 23 6. The Trustee is unable to determine if the Plan is in compliance with the liquidation test
24 11 U.S.C. § 1325(a)(4). The Debtor has listed a 2002 GMC Yukon on Schedule A/B
25 with a current value of \$1,469.00. The Debtor must provide the Trustee with written
26 documentation to support the value of \$1,469.00. The written documentation must
27 include a detailed description of the subject vehicle (i.e. year, make, model, approximate
28

1 mileage, condition,) and must include copies of the documentation used to determine the
2 value.

- 3 7. The Trustee is unable to determine if the Plan is in compliance with the liquidation test
4 11 U.S.C. § 1325(a)(4). The Debtor has listed a 2002 GMC Sierra on Schedule A/B with
5 a current value of \$1,317.00. The Debtor must provide the Trustee with written
6 documentation to support the value of \$1,317.00. The written documentation must
7 include a detailed description of the subject vehicle (i.e. year, make, model, approximate
8 mileage, condition,) and must include copies of the documentation used to determine the
9 value.
- 10 8. In order to assist the Trustee in determining whether the disposable income test in 11
11 U.S.C. §1325(b)(1)(B) and/or the feasibility test in 11 U.S.C. §1325(a)(6) is met, the
12 Trustee requests that the Debtor provide her with a copy of each federal and state income
13 tax return and W-2 form required under applicable law with respect to each tax year of
14 the Debtor's ending while the case is pending confirmation. The tax return shall be
15 provided to her at the same time it is filed with the taxing authority.

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18 Dated: June 9, 2017

/S/ Devin Derham-Burk

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20 Chapter 13 Trustee
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Said envelopes were addressed as follows:

SAGARIA LAW PC
3017 DOUGLAS BLVD #100
ROSEVILLE CA 956610

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